R e m a r k s

Claims 1 – 21 are pending in the application. In the Office Action Summary sheet, the Examiner indicates that claims 1-10 and 12-21 are pending in the application. Applicants believe that this is a typographical error. Applicants respectfully request that the Examiner correct this error in future communications.

Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims..

Claims 1-10, 12-21 are rejected under 35 U.S.C. 102(e) as being anticipated by McDysan et al. 7,046,680 B1, hereinafter McDysan.

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly

include the limitations of those claims on which it formerly depended or whether an independent claim has been rewritten to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

Rejection Under 35 U.S.C. 102

Claims 1-10 and 12-21 are rejected under 35 U.S.C. 102(e) as being anticipated by McDysan. The rejection is traversed.

Anticipation requires the presence in a single prior art disclosure of each and every element of the claimed invention, arranged as in the claim. McDysan fails to disclose each and every element of the claimed invention, as arranged in independent claim 1.

Specifically, McDysan fails to teach or suggest at least the limitation of "computing a status of utilization of said at least one location based on said polled information and assigning a decision policy to said status," as claimed in Applicants' claim 1.

Rather, McDysan discloses that per-customer usage statistics are obtained in order to measure conformance to service level agreements (SLAs) as well as detect other events of interest. The obtaining of per-customer status, as disclosed in McDysan, is not computing a status of utilization of at least one location, as claimed in Applicants' claim 1.

In the Office Action, the Examiner cites specific portions of McDysan, asserting that the cited portions of McDysan disclose Applicants' limitation of "computing a status of utilization of said at least one location based on said polled information and assigning a decision policy to said status," as claimed in Applicants' claim 1. The cited portions of McDysan, however, disclose per-customer status, not location-based status.

The first portion of McDysan cited by the Examiner (namely, Col. 13, Lines 13 – 28) is devoid of any teaching or suggestion of computing a status of utilization of at least one location based on polled information and assigning a decision policy to said status. Rather, this portion of McDysan discloses two exemplary reporting messages triggered

by monitoring, where each reporting message provides per-customer information. Specifically, the cited portion of McDysan states that "reporting interface 102 can provide general usage statistics on a per-customer basis....Second, reporting interface 102 can specifically indicate in a reporting message that a customer's predefined traffic threshold has been exceeded. A service controller 120 in external processor 42 can utilize this information to allocate additional resources to the customer's traffic (e.g., to ensure conformance to a SLA)...." (McDysan, Col. 13, Lines 13 – 25, Emphasis added). In other words, the cited portion of McDysan merely discloses per-customer status. The cited portion of McDysan fails to teach or suggest computing a status of utilization of at least one location, as claimed in Applicants' claim 1.

The second portion of McDysan cited by the Examiner (namely, Col. 11, Lines 35 – 67) is devoid of any teaching or suggestion of computing a status of utilization of at least one location based on polled information and assigning a decision policy to said status. Rather, this portion of McDysan describes communication between policy server 48 and external processor 42. More specifically, the cited portion of McDysan describes unsolicited and solicited modes of communication in which policy server 48 sends policy decisions and configuration parameters to external processor 42. This description of communication between policy server 48 and external processor 42 is devoid of any teaching or suggestion of computing a status of utilization, much less computing a status of utilization of at least one location, as claimed in Applicants' claim 1.

Additionally, although the second portion of McDysan cited by the Examiner mentions reserved bandwidth and usage information, McDysan merely discloses per-customer information. Specifically, McDysan states that "policy server 48 may track the amount of bandwidth reserved by a particular customer (a policy rule) and approve or reject a new service request by comparing the amount of remaining reserved bandwidth that is unutilized (usage information) and the amount of bandwidth required to provide the requested service." (McDysan, Col. 13, Lines 13 – 25, Emphasis added). In other words, the cited portion of McDysan merely discloses per-customer information. The cited portion of McDysan fails to teach or suggest computing a status of utilization of at least one location, as claimed in Applicants' claim 1.

The third portion of McDysan cited by the Examiner (namely, Col. 19, Lines 30 – 45) is devoid of any teaching or suggestion of computing a status of utilization of at least one <u>location</u> based on polled information and assigning a decision policy to said status. Rather, this portion of McDysan describes interaction between PAD 40 and service controller 120 when a customer router 32 initiates a value-added TCP session by sending a SYN message which PAD 40 passes to service controller 120. This description of interaction between PAD 40 and service controller 120 is devoid of any teaching or suggestion of computing a status of utilization of at least one <u>location</u>, as claimed in Applicants' claim 1.

Thus, since each cited portion of McDysan relied upon by the Examiner fails to teach or suggest computing a status of utilization of at least one <u>location</u>, each of the cited portions of McDysan relied upon by the Examiner must fail to teach or suggest at least the limitation of "computing a status of utilization of said at least one location based on said polled information and assigning a decision policy to said status," as claimed in Applicants' claim 1.

As such, independent claim 1 is not anticipated by McDysan and is patentable under 35 U.S.C. §102. Independent claim 5 recites relevant limitations similar to those recited in independent claim 1 and, as such, and at least for the same reasons as discussed above, independent claim 1 also is not anticipated by McDysan and are patentable under 35 U.S.C. §102. Furthermore, since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over McDysan.

Therefore, Applicants' claims 1-10 and 12-21 are allowable over McDysan under 35 U.S.C. 102(e). The Examiner is respectfully requested to withdraw the rejection.

Allowable Subject Matter

Claim 11 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

For reasons set forth above, Applicants submit that base claim 1 is allowable over the cited reference. Thus, dependent claim 11 is also allowable.

Therefore, Applicants' claim 11 is allowable. The Examiner is respectfully requested to withdraw the objection.

Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Michael Bentley or Eamon Wall at (732) 530-9404 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

Dated: _3/6/08_

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